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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,795	06/19/2001	Ronald J. Scherer	3616.177US12	4387

23552 7590 08/26/2002

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EXAMINER

LEE, JONG SUK

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 08/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,795

Applicant(s)

SCHERER ET AL.

Examiner

Jong-Suk (James) Lee

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-53 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1-23 and 29-42, drawn to a masonry block produced from a molded workpiece, which is formed by a mold, split by a block splitting assembly, classified in class 405, subclass 284.

Group II. Claims 24-28, drawn to a masonry block from a molded workpiece formed by a mold, classified in class 52, subclass 596.

Group III. Claims 53-53, drawn to a splitting blade assembly, classified in class 125, subclass 23.01.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II-III are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the subcombination requires, among other things, a molded workpiece or a block splitting assembly. The subcombination has separate utility such as it can be used in splitting a natural rock piece.

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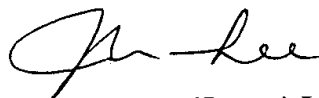
1 Inventions of Group II and Group III are related as subcombinations disclosed as usable
2 together in a single combination. The subcombinations are distinct from each other if they are
3 shown to be separately usable. In the instant case, invention of Group II and III has separate
4 utility such as they can be used in molding the building block or splitting the block or rock. See
5 MPEP § 806.05(d).

6 3. Because these inventions are distinct for the reasons given above and have acquired a
7 separate status in the art as shown by their different classification and the search required for
8 Groups I and II is not required for Group III restriction for examination purposes as indicated is
9 proper.

10 4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the
11 inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently
12 named inventors is no longer an inventor of at least one claim remaining in the application. Any
13 amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the
14 fee required under 37 CFR 1.17(I).

15 5. Any inquiry concerning this communication or earlier communications from the examiner
16 should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777.

17 J. Lee /jjl
18 August 23, 2002
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21


Jong-Suk (James) Lee
Patent Examiner
Art Unit 3673